

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMIE ROSENQUIST,

Petitioner/Defendant,

No. 16-20470

v.

Honorable Nancy G. Edmunds

UNITED STATES OF AMERICA,

Respondent/Plaintiff.

/

**Order Granting in Part Defendant's Motion For Leave To Amend Traverse [35]
and Accepting As Timely Defendant's Second Reply [37] and Denying
Remainder of Motion For Leave To Amend Traverse**

Petitioner/Defendant Jamie Rosenquist (Defendant) filed a motion for leave to amend traverse (ECF No. 35) seeking leave to address the government's response to his § 2255 motion.

The Court ordered the response to Defendant's § 2255 motion due by October 31, 2019, with Defendant's reply due by November 27, 2019. (ECF No. 31.) Defendant argues that he did not receive the Government's response until December 2, 2019, beyond the deadline. He also argues that the response included a certificate of service claiming that the response was sent on October 30, 2019, that the envelope was "post-dated by the DOJ mailroom for delivery" on November 25, 2019, and that the response was not delivered to Defendant until December 2, 2019. (ECF No. 35, PageID.185-86.) Defendant argues that this was an attempt to deny him the ability to file a timely reply to the government's response. He also argues that it was a fraud on the Court.

The government's response to Defendant's § 2255 motion was timely filed with this Court on October 30, 2019. (ECF No. 33.) The government provides a plausible

explanation for the late service on Defendant, explaining that it was mailed to Defendant on October 30, 2019, and came back about a month later marked "return to sender." It was mailed to Defendant again the same day. (ECF No. 36, PageID.192-93.) At this point, Defendant has already filed his amended reply on February 4, 2020, with the benefit of the government's response, and which the Court accepts and will consider. (ECF No. 37.)

THEREFORE, Plaintiff's motion for leave to amend traverse is GRANTED IN PART for the limited purpose of accepting as timely Defendant's reply filed on February 4, 2020 (ECF No. 37), and is DENIED as to the remainder of the relief sought.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: December 22, 2021

I hereby certify that a copy of the foregoing document was served upon counsel of record and Defendant on December 22, 2021, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager